

Small Business Administration

§ 124.1014

could receive the award if SBA determines that the apparently successful offeror is not an SDB.

(3) If the contracting officer does not receive an SBA determination within 15 calendar days after the SBA's receipt of the notification, the contracting officer will presume that the apparently successful offeror, and any other offerors referred to SBA in connection with the same procurement by the contracting officer, are not disadvantaged, and will make award accordingly, unless the contracting officer grants an extension to the 15-day response period.

(c) *Representation as SDB for statistical purposes.* A firm may represent itself as an SDB concern for general statistical purposes without regard to any application for SDB certification or its inclusion on the SBA-maintained list of qualified SDB's.

(d) *Subcontracting programs.* Only firms that are on the SBA-maintained list of qualified SDBs may represent themselves as SDB concerns in order to receive a preference as an SDB for any Federal subcontracting program.

§ 124.1011 What is a misrepresentation of SDB status?

(a) Any person or entity that misrepresents a firm's status as a "small business concern owned and controlled by socially and economically disadvantaged individuals" ("SDB status") in order to obtain an 8(d) or SDB contracting opportunity or preference will be subject to the penalties imposed by section 16(d) of the Small Business Act, 15 U.S.C. 645(d), as well as any other penalty authorized by law.

(b) A representation of SDB status by any firm that SBA has found not to be an SDB (either in connection with an SDB application or protest) will be deemed a misrepresentation of SDB status, unless and until the firm re-applies for and obtains SDB certification.

§ 124.1012 Can a firm reapply for SDB certification?

(a) A concern which has been denied SDB certification may reapply for certification at any time 12 months or more after the date of the most recent final decision of SBA to decline its ap-

plication (either on appeal of an ownership and control determination, or a negative finding of disadvantaged status).

(b) A concern which received a decision that it was not owned and controlled by the individual(s) claiming disadvantaged status from a Private Certifier and does not appeal that decision to OHA may apply for a new ownership and control determination at any time.

§ 124.1013 Is there a list of certified SDBs?

(a) If SBA certifies a firm to be an SDB, SBA will enter the name of the firm into an SBA-maintained central on-line register, such as PRO-Net.

(b) The register of SDBs will contain the names of all firms that are currently certified to be SDBs, including the names of all firms currently participating in SBA's 8(a) BD program.

(c) On a continuing basis, SBA will delete from the on-line register those firms that have:

(1) Graduated or been terminated from SBA's 8(a) BD program for any reason and have not otherwise received SDB certification (see, §§ 124.1008(h) and 124.1014(b) for treatment of 8(a) graduates);

(2) Been determined not to be an SDB in response to an SDB protest brought under § 124.1017; or

(3) Other than current 8(a) Participants, not received a renewed SDB certification after being on the register for three years (see § 124.1014(c)).

§ 124.1014 How long does an SDB certification last?

(a) Once SBA certifies a firm to be an SDB by placing it on the list of qualified SDBs, the firm will generally remain on the SBA-maintained list of certified SDBs for a period of three years from the date of its certification.

(1) A firm's SDB certification will extend beyond three years where SBA finds the firm to be an SDB:

(i) On the merits in connection with a particular protest (see § 124.1023(h)(2));

(ii) In connection with an SBA-initiated SDB determination (see § 124.1016(a)(2)); or

(iii) As part of an 8(a) BD annual review.